



COUNTY OF LOS ANGELES
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MARY C. WICKHAM
County Counsel

June 10, 2019

TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ELIZABETH D. MILLER 
Assistant County Counsel
Sheriff's Services Division

RE: **Item for the Board of Supervisors' Agenda**
County Contract Cities Liability Trust Fund
Claims Board Recommendation
Anderson, Kathleen v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 635915

Attached is the Agenda entry for the Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation in the above-referenced matter. Also attached is the Case Summary and the Summary Corrective Action Plan for the case.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

EDM:js

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Settlement for Matter Entitled Anderson, Kathleen v. County of Los Angeles, et al.

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matters entitled Anderson, Kathleen v. County of Los Angeles, et al., Los Angeles Superior Court Case No. BC 635915 in the amount of \$1,300,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit involves allegations of wrongful death and federal civil rights violations by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Anderson, Kathleen v. County of Los Angeles, et al.
CASE NUMBER	BC 635915
COURT	Los Angeles Superior Court
DATE FILED	September 30, 2016
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 1,300,000
ATTORNEY FOR PLAINTIFF	Arnoldo Casillas of Casillas & Associates Ralph Rios of Rios & Associates
COUNTY COUNSEL ATTORNEY	Millicent L. Rolon, Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$1,300,000, the lawsuit filed by Kathleen Anderson alleging that Sheriff's Deputies used excessive force against Mr. Anderson and caused his death.</p> <p>The Deputies deny the allegations and contend their actions were reasonable.</p> <p>Due to the high risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs. The full and final settlement of the case in the amount of \$1,300,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 117,121
PAID COSTS, TO DATE	\$ 9,644



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	July 5, 2015
Briefly provide a description of the incident/event:	<p><u>Kathleen Anderson, et al. v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2018-049</p> <p>On July 5, 2015, at approximately 9:30 p.m., an informant called Lakewood Station through the 9-1-1 emergency line to report that two males and a female entered a known abandoned house, at the location. The caller told the dispatcher that she believed the individuals were members of a criminal street gang and were trespassing at the location so they could smoke and drink inside. A call for service was generated.</p> <p>The first deputy sheriff was assigned as the handling unit for the priority call and the second deputy sheriff was assigned as the assisting unit. The first and second deputy sheriffs (both single-person units) arrived and met at the front of the location. The third deputy sheriff and fourth deputy sheriffs (in a two-person unit) were nearby and assigned themselves to the call. The handling unit coordinated the call and requested the third and fourth deputy sheriffs to go to the rear of the location, on the adjacent street.</p> <p>The third and fourth deputy sheriffs arrived and parked their patrol vehicle on the corresponding block, to the rear of the location, on 216th Street. They exited their vehicle and convened near the trunk of their patrol vehicle and formulated a plan. The third deputy sheriff took a position south of the duplex. The fourth deputy sheriff took a position approximately 50 feet east of the third deputy sheriff, adjacent to the driveway of an apartment complex. The third and fourth deputy sheriffs positioned themselves so as to maintain visual contact with each other.</p> <p>As the third and fourth deputy sheriffs took their containment positions, a Department air unit (helicopter) arrived overhead and utilized a spotlight as it orbited the area. Simultaneously, the first and second deputy sheriffs made contact with a female (plaintiff) at the front of the location on 215th Street and requested additional units respond as there was possibly multiple gang members at the location. As the plaintiff walked towards the first and second deputy sheriffs, a male (decedent) was seen running southbound from the abandoned house towards 216th Street.</p> <p>Note: It was later determined that the decedent fled because he was the subject of an injunction imposed against Varrio Hawaiian Gardens gang members and did not want to go to jail. The decedent had been served with the gang injunction on March 31, 2009, which prohibited him from trespassing on or in any property.</p>

As the decedent fled southbound, he entered a carport located between a detached garage and the duplex. A resident saw the decedent standing between the residence and the detached garage and informed a family member. The family member called 9-1-1 and notified Lakewood Station desk personnel of the decedent's presence. The decedent proceeded to the front unit, and knocked on the rear door of the residence and asked to gain entry. The residents refused to open the door and told the decedent to "get away."

The Lakewood Station desk advised via radio that they had received information from a resident that the decedent was on the east side of their duplex home on 216th Street. One of the residents in the same home that was on the phone with Lakewood Station desk saw the third deputy sheriff standing near the front of their house. The resident opened his front door and summoned the third deputy sheriff towards him.

Note: Prior to the third deputy sheriff moving to contact the resident, he motioned for the fourth deputy sheriff to watch the front of the duplex. Misunderstanding the hand motion from the third deputy sheriff, the fourth deputy sheriff walked northbound into the parking lot of the adjacent apartment complex, located to the east of the duplex.

The third deputy sheriff made contact with the resident and was told that the decedent was on the east side of that residence.

After speaking with the resident, the third deputy sheriff walked back to his original containment position and advised the air unit that the decedent was last seen on the east side of the duplex property. The air unit saw the decedent walking south toward a wooden gate leading toward 216th Street. The air unit informed the deputy sheriffs of the decedent's last seen location, but advised they lost sight of him as they orbited around the location.

The third and fourth deputy sheriff lost sight of each other due to the seven foot cinderblock wall which divided the parking lot and the duplex. In addition to the cinderblock wall there were bushes, overgrown vines and shrubs along the top of the wall obstructing their view of each other.

The third deputy sheriff approached the wooden gate on the east side of the duplex, in an attempt to assist the air unit in reestablishing visual contact with the decedent. The third deputy sheriff unholstered his duty weapon and approached the wooden gate. He found the gate was closed and he could not see past it. The third deputy sheriff stood on top of a nearby planter to enhance his visibility over the gate.

Note: While stepping on the planter, the top of the gate was about the same height as the top of his chest.

The third deputy sheriff was able to see into the property and began visually clearing the dimly lit area. He placed his left hand on the south wall while holding his firearm in his right hand, as he leaned toward the gate and attempted to clear the area directly below the wooden gate. While moving forward and looking down, he saw the area was very dark. The third deputy sheriff held his firearm close to his chest and maintained good aiming positioning enabling him to maintain front sight alignment on the area as he searched. The angle of the third deputy sheriff's movement

	<p>caused the barrel of his firearm to move approximately one inch beyond the gate as he continued to look further downward in the dark area behind the gate.</p> <p>As the third deputy sheriff continued to move and clear the area, the decedent "popped out," from behind the gate and quickly reached toward the deputy sheriff's duty weapon. The third deputy sheriff believed the decedent's arm was fully extended and his hand was a few inches from the barrel of his firearm. Fearing the decedent would take control of his weapon and use it against him and/or his partners, the third deputy sheriff fired one round at the decedent, striking him in the chest, while simultaneously moving backward.</p> <p>Immediately upon firing his duty weapon, the third deputy sheriff stepped down from the planter and pushed the gate open. The decedent was just inside the gate holding his chest. The third deputy sheriff ordered the decedent to get on the ground, and held him at gunpoint. The decedent sat on the ground then slumped over. As the third deputy sheriff held the decedent at gunpoint, the fourth deputy sheriff arrived to assist.</p> <p>The third deputy sheriff stepped back from the gate and immediately broadcasted, via his handheld radio, that he was involved in a shooting, and requested emergency medical personnel to respond. Due to the initial call indicating there were multiple individuals at the location and the immediate area in which they stood had not yet been cleared, the third and fourth deputy sheriffs maintained their positions pending additional units and paramedics.</p> <p>The third and fourth deputy sheriffs provided security for paramedics as they performed lifesaving efforts. The decedent succumbed to his injuries and was pronounced dead at the scene.</p> <p>A search of the decedent and the crime scene did not reveal any evidence the decedent possessed any type of weapon during this incident.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

A **Department** root cause in this incident was the third deputy sheriff leaving his containment position and approaching an un-cleared area without having an exigency to do so.

Another **Department** root cause in this incident was the third deputy sheriff leaving his containment position, approaching the target location, and independently conducting a search of the area without clearly communicating his intent, and his actions to his partners.

Another **Department** root cause in this incident was the third deputy sheriff placed his duty weapon over a wall placing himself in a tactical disadvantage.

Another **Department** root cause in this incident was the use of deadly force against the decedent and no weapon was found in his possession or at the crime scene.

A **non-department** root cause in this incident was the decedent reaching for the third deputy sheriff's duty weapon.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

This incident was investigated by the Los Angeles County Sheriff's Department's Homicide Bureau to determine if any criminal misconduct occurred.

The results of their investigation were presented to representatives from the Los Angeles County District Attorney's Office.

On August 4, 2016, the Los Angeles County District Attorney's Office concluded the third deputy sheriff acted lawfully and in self-defense, when he used deadly force against the decedent.

This incident was investigated by representatives of the Los Angeles County Sheriff's Department's Internal Affairs Bureau to determine if any administrative misconduct occurred before, during, or after this incident. The results of the investigation were presented to the Executive Force Review Committee (EFRC) for adjudication.


On July 13, 2017, the EFRC determined the use of force used in this incident was within Department policy but the tactics were in violation of Department policy. Appropriate administrative action was taken.

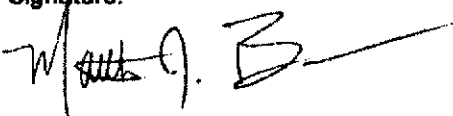
County of Los Angeles
Summary Corrective Action Plan

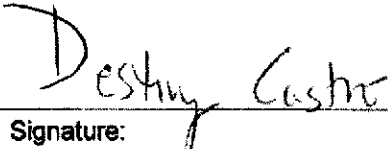
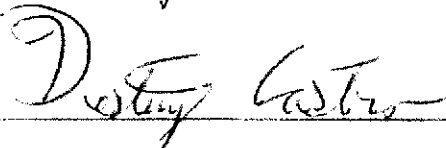
3. Are the corrective actions addressing Department-wide system issues?

- ☐ Yes – The corrective actions address Department-wide system issues.
☒ No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator) Dana A. Chernitzer, A/Captain Risk Management Bureau	
Signature: 	Date: 2/19/19

Name: (Department Head) Matthew J. Burson, Chief Professional Standards and Training Division	
Signature: 	Date: 02/19/19

Chief Executive Office Risk Management Inspector General USE ONLY	
Are the corrective actions applicable to other departments within the County?	
<input type="checkbox"/> Yes, the corrective actions potentially have County-wide applicability. <input checked="" type="checkbox"/> No, the corrective actions are applicable only to this Department.	
Name: (Risk Management Inspector General) 	
Signature: 	Date: 2/19/2019